

[Counsel for parties are listed on signature page]

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

MARTIN LEWIS, AARON COOPER, and
ANISSA SCHILLING, on behalf of themselves
and a class of those similarly situated,

Plaintiffs,
vs.

WELLS FARGO & CO.,

Defendant.

Case No. CV-08-2670-CW

Judge: Hon. Claudia Wilken

**STIPULATION AND ORDER TO
SUBMIT DEFENDANT'S RULE 12
MOTION TO DISMISS, OR IN THE
ALTERNATIVE, MOTION FOR A
MORE DEFINITE STATEMENT ON
THE PAPERS WITHOUT A HEARING**

Date: April 2, 2009

Time: 2:00 p.m.

Ctrm.: 2, 4th Floor

Action Filed: May 28, 2008

Trial Date: None Set

I. STIPULATION

2 Whereas, on February 26, 2009, Defendant Wells Fargo Bank, N.A. filed its Motion to
3 Dismiss for Failure to State a Claim Pursuant to FRCP 12(b)(6), or, In the Alternative, For A More
4 Definite Statement Pursuant to FRCP 12(e), setting the hearing date for April 2, 2009 at 2:00 p.m.
5 before this Court in accordance with all applicable federal and local rules.

6 Whereas, Plaintiffs advised Defendant that Plaintiffs' counsel is unavailable to attend the
7 hearing regarding the above motion on April 2, 2009. Plaintiffs proposed continuing the hearing to
8 April 9, 2009, April 16, 2009, or April 23, 2009. Defendant's counsel is not available on April 9 or
9 April 16, and would like to have the Motion resolved as soon as possible given the parties' ongoing
10 discovery dispute.

11 Accordingly, the parties, through their respective counsel of record, hereby stipulate and
12 agree to decline oral argument on Defendant's Rule 12 Motion and submit on the papers for the
13 reasons set forth above.

14 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

15 | DATED: March 5, 2009

/S/ - Jahan C. Sagafi

Jahan C. Sagafi

16 Richard C. Haber (admitted *pro hac vice*)
17 Laura L. Volpini (admitted *pro hac vice*)
18 HABER POLK LLP
19 Eaton Center, Suite 620
20 1111 Superior Avenue
21 Cleveland, Ohio 44114
Telephone:
Facsimile:
E-Mail: rhaber@haberpolk.com
lvolpini@haberpolk.com

Kelly M. Dermody, State Bar No. 171716
Jahan C. Sagafi , State Bar No. 224887
LIEFF, CABRASER, HEIMANN & BERNSTEIN
LLP
275 Battery Street, 30th Floor
San Francisco, California 94111
Telephone: (415) 956-1000
Facsimile: (415) 956-1008
E-Mail: kdermody@lchb.com
jsagafi@lchb.com

Attorneys for Plaintiffs and Class Members

DATED: March 5, 2009

/S/ - Kent J. Sprinkle

Kent J. Sprinkle

Timothy M. Freudnerger, State Bar No. 138257
Alison L. Tsao, State Bar No. 198250
Kent J. Sprinkle, State Bar No. 226971
CARLTON DiSANTE & FREUDENBERGER LLP
601 Montgomery Street
Suite 350

1 San Francisco, California 94111
2 Telephone: (415) 981-3233
3 Facsimile: (415) 981-3246
4 E-Mail: tfreud@cdflaborlaw.com
atsao@cdflaborlaw.com
ksprinkle@cdflaborlaw.com
5 *Attorneys for Defendant WELLS FARGO BANK, N.A.*

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

The foregoing stipulation is approved, and IT IS SO ORDERED.

3/9/09

DATED: 5/9/09

Chadieale Witt

Hon. Claudia Wilken
UNITED STATES DISTRICT JUDGE